

Senate Rules Committee
Hearing on “Legislative Proposals to Change Senate Procedures”
Opening statement of Senator Tom Udall
July 28, 2010

Thank you, Mr. Chairman, for convening this fourth hearing allowing us to take another look at the state of our Senate’s rules.

Today’s hearing on “Legislative Proposals to Change Senate Procedures” highlights once again why our Rules are in desperate need of reform. I have been speaking for months about reforming the Senate Rules – not just the filibuster – and I believe that the proposals offered today by Senators Lautenberg and Bennet deserve serious consideration.

As my distinguished colleagues here well know, I believe that our rules are broken, and I’m not alone. Over the past few months, we’ve seen proposals for rules changes from several senators. I would like to echo the Chairman in praising Senators Lautenberg and Bennet for sharing theirs here today.

A trend you’ll see in these proposals is that they’re not limited to just reforming the filibuster. I think many of my Republican colleagues, as well as some in the press, have improperly portrayed our efforts to reform the rules as an attempt to completely abolish the filibuster. But as today’s witnesses will discuss, the proposals by Senators Lautenberg and Bennet do not eliminate the filibuster, but are instead meant to end needless obstruction and encourage debate.

The filibuster is a symptom of a larger issue. The real problem – the issue we must address comprehensively – is a system of rules that make the Senate a place where dysfunction reigns and accountability suffers.

I believe the Constitution provides a solution to this problem. Many of my colleagues, as well as conservative and liberal constitutional scholars, agree with me that the Constitution guarantees the Senate the right for a simple majority to adopt or amend its rules at the beginning of a new Congress. While the current rules requires two-thirds of Senators voting to invoke cloture on a rules change, the Senate of the 112th Congress is not bound by our rules.

So first thing in January, at the beginning of the next Congress, I will move for the Senate to adopt its rules by a simple majority. This is the Constitutional Option. It’s what the House does. It’s what nearly every legislature in the world does. And it’s what the U.S. Senate should do to make sure we’re accountable, both to our colleagues, and to the American people.

The Constitutional Option is our chance to fix rules that are being abused, like the filibuster and secret holds. But without it, reform is unlikely. Many of the ideas we’ve heard during this series of hearing have come up before.

Let me use one of Senator Bennet’s proposals as an example. His bill would make most motions to proceed nondebatable. This idea, in various forms, has had bipartisan support for decades and

is often mentioned as a way to weaken the power, and abuse, of holds. Yet we are discussing it again today.

Our late steward of the Senate, Senator Byrd, himself tried to make the same change when he was Majority Leader. He even discussed it during his last appearance before this committee, just weeks before his passing.

In January 1979, Leader Byrd took to the Senate Floor and said that unlimited debate on a motion to proceed, “makes the majority leader and the majority party the subject of the minority, subject to the control and the will of the minority.”

Despite the moderate change that Senator Byrd proposed – limiting debate on a motion to proceed to thirty minutes – it did not have the necessary 67 votes to overcome a filibuster.

Efforts to reform the motion to proceed have continued since. In 1984, a bi-partisan “Study Group on Senate Practices and Procedures” recommended placing a two hour limit on debate of a motion to proceed. That recommendation was ignored.

In 1993, Congress convened the Joint Committee on the Organization of Congress. The Committee was a bipartisan, bicameral attempt to look at Congress and determine how it can be a better institution. Senator Pete Domenici, my immediate predecessor, was the co-vice chairman of the committee. Senator Domenici stated at a hearing before the Joint Committee, “If we abolish [the debatable motion to proceed], we have gone a long way to diffusing the validity of holds.”

But here we are again today – more than thirty years after Senator Byrd tried to make a reform that members of both parties have agreed is necessary.

And that’s just one example. After unprecedented obstruction over the past few years, the time for reform is now. The ability of this body to address the important issues facing our nation depends on it. Talking about change, and reform, does not solve the problem. We can hold hearings, convene bi-partisan committees, and study the problem to death. But until we agree that the Constitution provides the right for each Senate to adopt its rules of proceedings by a simple majority vote, there will be no real reform.

The predecessor of my Senate seat, Clinton Anderson, was one of the early proponents of the Constitutional Option. In 1957, he said on the Senate floor that, “It is our duty to take responsibility for the rules which will govern our procedures, and not to cast that responsibility upon the dead hands of past Congresses.” I hope my colleagues will join me in January to carry out this critical responsibility.